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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,525	07/10/2003	Yen-Fu Chen	AUS920030419US1	3553

7590
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EXAMINER

RICHMAN, GLENN E

ART UNIT	PAPER NUMBER
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3764

MAIL DATE	DELIVERY MODE
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08/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/617,525	Applicant(s) CHEN ET AL.	
	Examiner /Glenn Richman/	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-7 and 9-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-7 and 9-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 6, 9-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shea.

Shea discloses receiving identification (ID) signals at one of said workout stations (col. 7, lines 52-57), said ID signals being representative of an individual user (col. 7, lines 52-57), said receiving is accomplished by receiving ID signals at a reading device located at said workout station, said ID signals being generated by an initial reading of a code contained on an article carried by said individual user (col. 7, lines 52-57), measuring workout data generated by said workout station (col. 23, lines 7 – et seq.), and said individual user at saving said workout data to a workout data file associated with said individual user when said user has finished using said workout station (col. 23, lines 7 – et seq.), said workout data file is maintained at a server within said workout facility (fig. 3).

Shea does not disclose swiping the card a second time at completion of the workout at that station, however it would have been obvious to one skilled in the art to include this step since Shea recognizes that an indication should be made that the exercise has stopped– either by the time elapsed or the pressing a of a STOP key (340,

col. 23, lines 15-20). A second swiping would be an alternative to the pressing of a STOP key.

As for claims 5 and 6, Shea further discloses said receiving is accomplished by receiving ID signals at a reading device located at said workout station, said ID signals being generated by an initial reading of a code contained on an article carried by said individual user (col. 7, lines 52-57), said code is a bar code readable by an wherein said code is optical reading device (col. 7, lines 52-57), said code is a magnetic code on a medium readable by a magnetic code reading device (col. 7, lines 52-57),

As for claims 9-17, Shea further discloses displaying said workout data on a display device located at said workout station (col. 8, lines 53 – et seq.), displaying said workout data file of said individual user on a display device located at said workout station (col. 9, lines 37 – et seq.), said workout data file further includes a workout routine for said individual user, said workout routine including specific workout protocols for said individual user at each of said plurality of workout stations (col. 15, lines 55 – et seq.), displaying said specific workout protocols for said individual user on said display devices at workout stations being used by said individual user (col. 15, lines 55 – et seq., col. 26, lines 14-38), saving workout data from a stations to said workout data file (col. 26, lines 14-38), enabling reservation of selected workout stations by said individual user (col. 26, lines 38-40), displaying notice of said reservation of a reserved workout station at a display device located at said reserved workout station (col. 26, lines 38 – et seq.), disabling said reserved workout station, said reserved workout

station being selectively enabled by said receiving of said ID signals associated with said individual user at said reserved workout station (col. 26, lines 38 – et seq.).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 7, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shea in view of Millington.

Shea does not disclose said receiving is accomplished by receiving ID signals transmitted from a transmitter device carried by said individual user.

Millington discloses receiving is accomplished by receiving ID signals transmitted from a transmitter device carried by said individual user (col. 9, lines 37-57).

It would have been obvious to use Millington's means for transmitting with Shea's exercise device, as it is well known as taught by Millington, to use a transmitter for transmitting an ID signal, and as Shea discloses various means for transmitting an ID signal.

Millington does not specifically disclose determining when said individual user has finished using said workout station, said determining being accomplished by detecting an absence of said transmitted ID signals at said workout station, however it is inherent the individual is finished when signals are no longer received.

As for amended claims 18 and 19, Shea discloses receiving a request from a user to schedule a workout session using said workstations at said workout facility (fig. 15D); enabling user access to a facility workout schedule for workout stations within said workout facility col. 5, lines 3 – et seq.; receiving scheduling input from said user col. 27, lines 38 - et seq., said scheduling input defining a user workout schedule for said user at said workout facility col. 27, lines 38 - et seq.; storing said user workout schedule at a workout server used by said workout facility col. 27, lines 38 - et seq.; reserving workout stations scheduled by said user to enable only said user to use workstations at times designated in said user workout schedule col. 27, lines 38 - et seq.

Miller discloses detecting when said user enters said workstation facility by detecting a user identification (ID) signal transmitted from a device carried by said user (col. 9, lines 37-57);

Shea discloses storing information indicating a presence of said user at said workout facility in response to said detecting col. 27, lines 38 - et seq.; determining when said user is in proximity to a first workout station scheduled for use by said user col. 27, lines 38 - et seq.; displaying said user workout schedule on a display viewable by said user from said first workout station in response to said determining col. 27, lines 38 - et seq.; collecting workout data of said user while said user is working at said first workout station col. 23, lines 7 – et seq., determining when said user departs from said first workout station col. 27, lines 38 - et seq.; updating said user workout schedule by recording said workout data of said user collected at said first workout station after said

user has departed from said first workout station (col. 23, lines 7 – et seq.); terminating said displaying after said determining that said user has departed from said first workout station col. 27, lines 38 - et seq.; and enabling other users to use said first workout station after said user has departed from said first workout station col. 27, lines 38 - et seq., and scheduling input is received from a user wireless device, said user wireless device being located remotely from said workout server fig. 3, col. 5, lines 3 – et seq.

Response to Arguments

Applicant's arguments filed 4/30/08 have been fully considered but they are not persuasive.

As to the applicant's arguments:

In regards to the reapplied rejection to Shea and Millington, the claims had to be reevaluated in light of KSR vs. Teleflex,.

1. Neither Shea nor Millington discloses or suggests the total integrated system, including the components and relationships between and among the recited components.

As to 1 above, the total integrated system is discussed in the above rejection to Shea and Millington.

2. The similarity of various pieces and parts of the references as noted on pages 2-5 of the above-identified Office Action have been noted but it is believed that there is no suggestion or nexus among the references to even suggest any combination of those references or the total combination of elements and relationships as recited in the claims as herein amended. Where there is no teaching or suggestion in any of the

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references for the specific total combination of elements and relationships among those elements, as claimed by an applicant, it is submitted to be inappropriate to search the prior art using applicant's own disclosure as a recipe, to find piecemeal elements in prior art references for individual claimed elements, and then to combine those references in a manner not contemplated by the prior art but disclosed only by the applicant in order to reject applicant's own claims.

As to 2 above, where a claimed improvement on a device or apparatus is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement," the claim is unpatentable under 35 U.S.C. 103(a). *Ex Parte Smith*, 83 USPQ.2d 1509, 1518-19 (BPAI, 2007) (citing *KSR v. Teleflex*, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)). Accordingly Applicant claims a combination that only unites old elements with no change in the respective functions of those old elements, and the combination of those elements yields predictable results; absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). *Ex Parte Smith*, 83 USPQ.2d at 1518-19 (BPAI, 2007) (citing *KSR*, 127 S.Ct. at 1740, 82 USPQ2d at 1396. Accordingly, since the applicant[s] have submitted no persuasive evidence that the combination of the above elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a) because it is no more than the predictable use of prior art elements according to their established functions resulting in the simple substitution of one known

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element for another or the mere application of a known technique to a piece of prior art ready for improvement.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Glenn Richman/ whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn Thanh can be reached on (571)272-4966. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Glenn Richman/
Primary Examiner
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